

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: Criminal Justice Committee

---

BILL: SB 1744

INTRODUCER: Senator Fasano

SUBJECT: Law Enforcement and Correctional Officers Rights/Disciplinary Actions

DATE: March 30, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	<b>Pre-meeting</b>
2.	_____	_____	GO	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

---

## I. Summary:

Senate Bill 1744 creates a new remedy for law enforcement or correctional officers whose rights under the “Law Enforcement Officers Bill of Rights” have been violated during the course of an investigation by his or her agency into alleged wrongdoing by the officer.

The bill expands the authority of the Criminal Justice Standards and Training Commission to levy fines, either against an individual officer or against an agency, in an amount up to \$10,000. A second or subsequent violation may lead to de-certification of an officer.

This bill substantially amends section 112.534 of the Florida Statutes.

## II. Present Situation:

Part VI of Chapter 112 is commonly referred to as the “Law Enforcement Bill of Rights.” These statutes govern the process and method by which disciplinary actions against law enforcement and correctional officers are to be investigated and managed by their employing agencies.

Currently, if an agency fails to comply with the provisions of the Law Enforcement Officers’ Bill of Rights, an officer who is personally injured by such failure to comply may apply directly to the circuit court of the county where the agency is headquartered for an injunction to restrain and enjoin the violation and to compel performance of the agency’s duties.

Section 112.534(1), F.S., states:

If any law enforcement agency or correctional agency fails to comply with the requirements of this part, a law enforcement officer or correctional

officer employed by or appointed to such agency who is personally injured by such failure to comply may apply directly to the circuit court of the county wherein such agency is headquartered and permanently resides for an injunction to restrain and enjoin such violation of the provisions of this part and to compel the performance of the duties imposed by this part.

Subsection (2) of s. 112.534, F.S., requires that the provisions of s. 838.022, F.S., apply. It states, in part:

It is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause harm to another, to:

- (a) Falsify, or cause another person to falsify, any official record or official document;
- (b) Conceal, cover up, destroy, mutilate, or alter any official record or official document or cause another person to perform such an act; or
- (c) Obstruct, delay, or prevent the communication of information relating to the commission of a felony that directly involves or affects the public agency or public entity served by the public servant.

A violation of this statute constitutes a third degree felony.

Further, s. 112.533(5), F.S., provides special protections to the officer who exercises his or her rights:

No law enforcement officer or correctional officer shall be discharged; disciplined; demoted; denied promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, by reason of his or her exercise of the rights granted by this part.

The Criminal Justice Standards and Training Commission does not currently have the statutory authority to sanction agencies by imposing monetary fines. Agencies are not “certified” by the Commission, as individual officers are, therefore there appears to be no legal authority to “discipline” an agency.

### **III. Effect of Proposed Changes:**

Senate Bill 1744 creates a new remedy for law enforcement or correctional officers whose rights under the “Law Enforcement Officers Bill of Rights” have been violated during the course of an investigation by his or her agency into alleged wrongdoing by the officer.

The bill expands the authority of the Criminal Justice Standards and Training Commission to levy fines, either against an individual officer or against an agency, in an amount up to \$10,000. A second or subsequent violation may lead to de-certification of an officer.

The commission is authorized by the bill to create administrative rules as may be necessary for the implementation of the bill.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Expanding the role of the Criminal Justice Standards and Training Commission to investigate claims of rights violations, or perhaps to hear and decide whether such claims are valid and then mete out appropriate sanctions will likely result in a fiscal impact to the commission in new staff (FTE) requirements.

The bill does not specify to whom any fines levied under the authority of the bill are payable.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.



## **VIII. Summary of Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---